

ENTERED

December 27, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	CASE NO: 23-34815
GALLERIA 2425 OWNER, LLC,	§	
	§	CHAPTER 11
Debtor.	§	
	§	
GALLERIA 2425 OWNER LLC,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	ADVERSARY NO. 23-3263
	§	
NATIONAL BANK OF KUWAIT, S.A.K.P.,	§	
NEW YORK BRANCH	§	
AND AZEEMEH ZAHEER,	§	
	§	
Defendants.	§	

ORDER SEVERING AND REMANDING CLAIM

This matter is before the Court on the Emergency Motion to Sever and Remand on Grounds of Abstention or, Alternatively, Equitable Remand and Discretionary Abstention (ECF No. 2) filed by the defendant, Rodney Drinnon. A response was filed in opposition by the plaintiff and the debtor in the underlying bankruptcy case, Galleria 2425 Owner, LLC (ECF No. 12). The defendant requests this Court sever him from the suit and remand his claim under the Texas Citizens Participation Act, Tex. Civ. Prac. & Rem. Code 27.001, et seq., (the "TCPA Claim") to the 281st Judicial District Court of Harris County, Texas under Cause No. 2023-22748 ("the State Court Action") pursuant to 28 U.S.C. § 1334(c), or, alternatively, under the principles of equitable remand and discretionary abstention under 28 U.S.C. § 1452(b) and 28 U.S.C. § 1334(c)(1). For the following reasons, this motion is granted regarding Rodney Drinnon and his claim.

In its response, the plaintiff states that it intended to remove the defendant as a party prior to the removal of the State Court Action to this court by amending the petition for relief. Accordingly, the Court finds Rodney Drinnon should be severed from this adversary. The live pleading in this removed case is now the Sixth Amended Petition, that was filed on December 17, 2023, in Harris County, Texas.¹ The defendants are the National Bank of Kuwait, S.A.K.P., New York Branch and Azeemeh Zaheer.

The State Court Action was removed to this Court on December 18, 2023, by the plaintiff asserting that it is related to the debtor's bankruptcy case. Plaintiff's response states that the removal of the State Court Action was not intended to thwart Rodney Drinnon's pursuit of his

¹ ECF No. 1-2, pages 917-946.

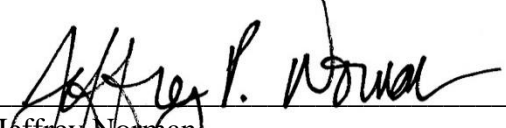
TCPA Claim. Further, the plaintiff's response admits that the Fifth Circuit has determined that claims under the TCPA are inconsistent with the federal rules and are not compatible and not applicable.² This Court has already entered an order in the underlying bankruptcy case lifting the automatic stay regarding this claim. Accordingly, the Court finds that it does not have jurisdiction over Rodney Drinnon's claims under the TCPA, and remands those claims to the 281st Judicial District Court of Harris County, Texas. The Court makes no findings whether any claims by or against the plaintiff/debtor other than those by Rodney Drinnon in the State Court Action have been remanded.

IT IS THEREFORE ORDERED that Rodney Drinnon is severed from this adversary.

IT IS FURTHER ORDERED that Rodney Drinnon's TCPA claim, and any defenses asserted by or against the plaintiff/debtor are remanded to the 281st Judicial District Court of Harris County, Texas, and the automatic stay is lifted for the purpose of allowing the hearing and ruling on the Texans Citizens Participation Act motion pending in Case No. 2023-22748, in the 281st Judicial District Court of Harris County, Texas.³

IT IS FURTHER ORDERED that the hearing on the Emergency Motion of Defendant Rodney Drinnon to Sever and Remand on Grounds of Abstention or, Alternatively, Equitable Remand and Discretionary Abstention scheduled for December 28, 2023, is cancelled.

SIGNED 12/27/2023



Jeffrey Norman
United States Bankruptcy Judge

² Response, ECF No. 12, page 4, citing *Knock v. Watson*, 936 F.3d 240 (5TH Cir. 2019).

³ See order in the main case, Case No. 23-34815, ECF No. 62.